

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KIRK EDWARD BARSNESS,

Defendant.

CR 16–15–BU–DLC

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on September 20, 2016. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).


Judge Lynch recommended this Court accept Kirk Edward Barsness’s guilty plea after Barsness appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of possession with intent to

distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1) (Count III), as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts I and II of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 22), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Kirk Edward Barsness's motion to change plea (Doc. 13) is GRANTED and Kirk Edward Barsness is adjudged guilty as charged in Count III of the Indictment.

DATED this 7<sup>th</sup> day of October, 2016.

  
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Dana L. Christensen, Chief District Judge  
United States District Court